

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Walter J. Fichtner,

Petitioner-Appellant,

v.

City of Davenport Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-103-1119
Parcel No. DAD /N0733-20**

On November 20, 2009, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Walter J. Fichtner, was self-represented. The City of Davenport Board of Review designated Assistant City Attorney Chris Jackson as its legal representative. All parties participated by phone. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Walter J. Fichtner, owner of a residentially classified property located at 1960 E 50th Court, Davenport, Iowa, appeals from the City of Davenport Board of Review regarding his 2009 property assessment. The 2009 assessment is allocated as follows: \$54,260 in land value and \$267,010 in improvement value for a total assessment of \$321,270.

The subject property is a one-story, bi-attached, single-family residence. The improvements include 2160 square feet of above grade finish; a full, walk-out basement area with 1150 square feet of finish; and a 780 square-foot, two-car garage. The improvements were built in 2007.

Mr. Fichtner protested his assessment to the City of Davenport and supplied two comparable properties and their assessments for consideration, contending his property assessment was not

equitable under Iowa Code section 441.37(1)(a). Mr. Fichtner did not specify the relief he sought to the Board of Review.

The Board of Review left the value unchanged.

Mr. Fichtner then appealed to this Board. He reasserts his claim that the assessment is not equitable. He seeks relief of \$6720, asserting the total correct value of the property is \$314,550.

Mr. Fichtner provided nine property record cards and photos of additional equity comparables. Eight of the nine exhibits were received by mail; the ninth exhibit was received by fax the morning of hearing. The Board of Review objected to all nine exhibits based on timeliness. This object was sustained and none of the exhibits were admitted. The Board of Review did not offer any exhibits.

Mr. Fichtner testified that he believed there was no parity in the assessments and that they were neither fair nor equitable. He believed there was ample evidence to prove his property is inequitably assessed, specifically by considering that several properties in the area with similar finished living area (total above grade and below grade finish) were assessed for less, than his property.

Mr. Fichtner referenced eight properties by parcel number, providing the total finished area of each property, the site size, and the current assessments. The properties referenced were single-family properties rather than bi-attached like the subject and some were older. Mr. Fichtner admitted that he did not talk to the City Assessor to determine what factors were considered in the assessment. He also confirmed that he purchased the property in 2008 for \$339,000.

Davenport City Deputy Assessor Nick Van Camp testified on behalf of the Board of Review. Mr. Van Camp stated that multiple factors are considered within the assessment process, including but not limited to size, basement finish, garage space, number of plumbing fixtures, heating/cooling, and other amenities such as walk-out features and decks/patios. Mr. Van Camp stated that the assessment of the subject property was based on the development of the cost approach. These results are then double checked with sales in the area.

Mr. Van Camp also provided the following information on the subject property and the two equity comparables provided by Mr. Fichtner. The certified record includes property cards for the two equity comparables submitted to the Board of Review. These properties are located in the same development as the subject property and are located at 1919 E 50th Court and 1932 E 50th Court. Mr. Van Camp testified the subject property and supplied comparables were assessed as follows:

	<u>Address</u>	<u>Year Built</u>	<u>Assessed \$/SF</u>
Subject	1960 E 50 th Ct	2007	\$148.74
Comp 1	1919 E 50 th Ct	2006	\$149.17
Comp 2	1932 E 50 th Ct	2003	\$151.66

Mr. Van Camp points out that the subject property has the lowest assessed value per square foot in comparison to the other equity comparables presented.

The Board of Review's evidence clearly demonstrated, through the equity comparables supplied by the petitioner, that the subject property is equitably assessed. While we find Mr. Fichtner earnest in his belief that he is not equitably assessed, based upon the foregoing findings, he has not submitted sufficient evidence to this Appeal Board to support this claim.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only


those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced: *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

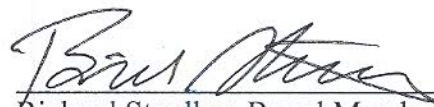
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). Mr. Fichtners evidence of inequity was incomplete and did not demonstrate a disparity in assessments of other like properties.

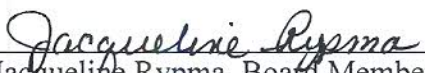
In the opinion of the Appeal Board, the evidence does not support the claim that the property's assessment is not equitable with like properties. We therefore affirm the assessment of Walter J. Fichtner's property as determined by the City of Davenport Board of Review, as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of Walter J. Fichtner's property located at 1960 E 50th Court, Davenport, Iowa, of \$321,270 as of January 1, 2009, set by the City of Davenport Board of Review, is affirmed.

Dated this 7 day of November 2009


Karen Oberman, Presiding Officer


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

Cc:

Walter J. Fichtner
1960 E 50th Court
Davenport, Iowa 52807
APPELLANT

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ATTORNEYS FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-7</u> , 200 <u>9</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	